

AMENDED IN ASSEMBLY MAY 23, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1848**

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**Introduced by Assembly Member Ma**

January 28, 2008

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An act to amend Section 18661 of, and to add Section 18664 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1848, as amended, Ma. Income tax: returns: withholding

(1) The Franchise Tax Board administers the taxes imposed under the Personal Income Tax Law and the Corporation Tax Law. Existing law authorizes persons that are required to withhold taxes from recipients of income to require the recipients of the income to provide that person with the recipient's name and address.

This bill would require the recipient of income to also provide the person paying the income with the payee's social security number or other taxpayer identification number if requested by the person paying the income.

(2) Existing law provides that the Franchise Tax Board, may, by regulation, require any person to withhold an amount, determined by the Franchise Tax Board to reasonably represent the amount of tax due, as specified, and to transmit the amount withheld to the Franchise Tax Board at a designated time.

This bill, in modified conformity with the federal income tax law, would require backup withholding, as provided, at a rate of 7% on specified payments made on or after January 1, 2009, whenever such payments are subject to federal backup withholding.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 18661 of the Revenue and Taxation Code  
2     is amended to read:  
3     18661. When necessary to make effective the provisions of  
4     this article or Article 4 (commencing with Section 18631), the  
5     name, address, social security number or other taxpayer  
6     identification number of the recipient of income shall be furnished  
7     upon demand of the person paying the income.  
8     SEC. 2. Section 18664 is added to the Revenue and Taxation  
9     Code, to read:  
10    18664. (a) (1) Section 3406 of the Internal Revenue Code,  
11    relating to the backup withholding, shall apply, except as otherwise  
12    provided.  
13    (2) For purposes of this section, the term “reportable payment,”  
14    as defined in Section 3406(b) of the Internal Revenue Code, shall  
15    include only payments of items of income as defined in Section  
16    ~~18662 and any regulations thereunder. 18662, and any regulations~~  
17    ~~thereunder, with respect to rents, prizes and winnings,~~  
18    ~~compensation for services, including bonuses, and other fixed or~~  
19    ~~determinable annual or periodic gains, profits, and income.~~  
20    (3) *This section shall not apply to either of the following:*  
21    (A) *Payment of interest and dividends.*  
22    (B) *Any release of loan funds made by a financial institution in*  
23    *the normal course of business.*  
24    (4) *For the purposes of subparagraph (B) of paragraph (3),*  
25    *“financial institution” means any of the following:*  
26    (A) *A depository institution, as defined in Section 1813(c) of*  
27    *Title 12 of the United States Code.*  
28    (B) *An institution-affiliated party, as defined in Section 1813(u)*  
29    *of Title 12 of the United States Code.*  
30    (C) *Any federal credit union or state credit union, as defined*  
31    *in Section 1752 of Title 12 of the United States Code, including*  
32    *an institution-affiliated party of a credit union, as defined in*  
33    *Section 1786(r) of Title 12 of the United States Code.*  
34    (b) The amount of tax to be withheld shall be computed by  
35    applying a rate of 7 percent.

1 (c) Where withholding under both this section and other  
2 provisions of this article would otherwise be required, withholding  
3 shall only be required under this section.

4 (d) Any payer required to withhold tax pursuant to this section  
5 shall notify the payee of such withholding at a time and in a manner  
6 as may be prescribed in forms and instructions by the Franchise  
7 Tax Board.

8 (e) This section shall apply to payments made on or after January  
9 1, 2009.

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